

1-1 By: Ellis, Hinojosa S.B. No. 592  
 1-2 (In the Senate - Filed February 15, 2013; February 25, 2013,  
 1-3 read first time and referred to Committee on Criminal Justice;  
 1-4 April 22, 2013, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 6, Nays 0; April 22, 2013,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12			X	
1-13	X			
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR S.B. No. 592 By: Patrick

1-17 A BILL TO BE ENTITLED  
 1-18 AN ACT

1-19 relating to the representation of indigent defendants in criminal  
 1-20 cases.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Subsection (j), Article 26.04, Code of Criminal  
 1-23 Procedure, is amended to read as follows:

1-24 (j) An attorney appointed under this article shall:

1-25 (1) make every reasonable effort to contact the  
 1-26 defendant not later than the end of the first working day after the  
 1-27 date on which the attorney is appointed and to interview the  
 1-28 defendant as soon as practicable after the attorney is appointed;

1-29 (2) represent the defendant until charges are  
 1-30 dismissed, the defendant is acquitted, appeals are exhausted, or  
 1-31 the attorney is permitted or ordered by the court to withdraw as  
 1-32 counsel for the defendant after a finding of good cause is entered  
 1-33 on the record; ~~and~~

1-34 (3) with respect to a defendant not represented by  
 1-35 other counsel, before withdrawing as counsel for the defendant  
 1-36 after a trial or the entry of a plea of guilty:

1-37 (A) advise the defendant of the defendant's right  
 1-38 to file a motion for new trial and a notice of appeal;

1-39 (B) if the defendant wishes to pursue either or  
 1-40 both remedies described by Paragraph (A), assist the defendant in  
 1-41 requesting the prompt appointment of replacement counsel; and

1-42 (C) if replacement counsel is not appointed  
 1-43 promptly and the defendant wishes to pursue an appeal, file a timely  
 1-44 notice of appeal; and

1-45 (4) not later than October 15 of each year and in the  
 1-46 form and manner prescribed by the Texas Indigent Defense  
 1-47 Commission, submit to the county information that describes the  
 1-48 attorney's caseload for the preceding fiscal year, including cases  
 1-49 taken on a retainer.

1-50 SECTION 2. Effective September 1, 2013, Subsection (a),  
 1-51 Section 79.036, Government Code, is amended to read as follows:

1-52 (a) Not ~~[In each county, not]~~ later than November 1 of each  
 1-53 odd-numbered year and in the form and manner prescribed by the  
 1-54 commission, each county ~~[the following information]~~ shall prepare  
 1-55 ~~[be prepared]~~ and provide ~~[provided]~~ to the commission:

1-56 (1) a copy of all formal and informal rules and forms  
 1-57 that describe the procedures used in the county to provide indigent  
 1-58 defendants with counsel in accordance with the Code of Criminal  
 1-59 Procedure, including the schedule of fees required under Article  
 1-60 26.05 of that code;

2-1 (2) any plan or proposal submitted to the  
2-2 commissioners court under Article 26.044, Code of Criminal  
2-3 Procedure;

2-4 (3) any plan of operation submitted to the  
2-5 commissioners court under Article 26.047, Code of Criminal  
2-6 Procedure;

2-7 (4) any contract for indigent defense services  
2-8 required under rules adopted by the commission relating to a  
2-9 contract defender program;

2-10 (5) ~~[(2)]~~ any revisions to rules, ~~[or]~~ forms, plans,  
2-11 proposals, or contracts previously submitted under this section; or  
2-12 (6) ~~[(3)]~~ verification that rules, ~~[and]~~ forms,  
2-13 plans, proposals, or contracts previously submitted under this  
2-14 section still remain in effect.

2-15 SECTION 3. Section 79.036, Government Code, is amended by  
2-16 adding Subsection (a-1) to read as follows:

2-17 (a-1) Not later than November 1 of each year and in the form  
2-18 and manner prescribed by the commission, each county shall prepare  
2-19 and provide to the commission information that describes for the  
2-20 preceding fiscal year the caseloads of attorneys receiving  
2-21 appointments under Article 26.04, Code of Criminal Procedure.

2-22 SECTION 4. (a) This section takes effect September 1,  
2-23 2013.

2-24 (b) Not later than September 1, 2014, the Texas Indigent  
2-25 Defense Commission shall conduct and publish a study for the  
2-26 purpose of determining guidelines for establishing a maximum  
2-27 allowable caseload for a criminal defense attorney that, when the  
2-28 attorney's total caseload, including appointments made under  
2-29 Article 26.04, Code of Criminal Procedure, appointments made under  
2-30 Title 3, Family Code, and other work, is considered, allows the  
2-31 attorney to give each indigent defendant the time and effort  
2-32 necessary to ensure effective representation. The study must be  
2-33 based on relevant policies, performance guidelines, and best  
2-34 practices.

2-35 (c) In conducting the study under Subsection (b) of this  
2-36 section, the commission shall consult with criminal defense  
2-37 attorneys, criminal defense attorney associations, the judiciary,  
2-38 and any other organization engaged in the development of criminal  
2-39 indigent defense policy that the commission considers appropriate.

2-40 SECTION 5. The change in law made by this Act applies only  
2-41 to a criminal proceeding that commences on or after the effective  
2-42 date of this Act. A criminal proceeding that commences before the  
2-43 effective date of this Act is governed by the law in effect when the  
2-44 proceeding commenced, and the former law is continued in effect for  
2-45 that purpose.

2-46 SECTION 6. Except as otherwise provided by this Act, this  
2-47 Act takes effect September 1, 2014.

2-48 \* \* \* \* \*